UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,660	04/02/2004	Jonathan Qiang Li	10031315-1	3412

7590   11/23/2007

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EXAMINER
THOMAS, MIA M

ART UNIT	PAPER NUMBER
2624	

MAIL DATE	DELIVERY MODE
11/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	10/817,660	LI, JONATHAN QIANG
	Examiner	Art Unit	
	Mia M. Thomas	2624	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>22 October 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires_____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>Refer to Attached Correspondence.</u>

12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). <u>See attached</u>

13. ☐ Other: _____.

Mia M. Thomas
Patent Examiner
Art Unit 2624

Attachment of Correspondence to Advisory Action

Instant Application 10/817,660

Paper Number. 20071114

Response to Arguments

1.   This attachment is responsive to remarks/arguments received on 22 October 2007.

Claims 1-26 remain in this application, all of which stand rejected.

2.   Information Disclosure Statement

Summary of Remarks @ page 2 of 11:

The Examiner has refused to consider the Non- Patent Literature (NPL) documents

submitted...via EFS on 11/16/06. A print of the Form PTO/SB/08a filed on 11/16/06 is also

attached...the blank IDS form is not viewable as part of PAIR's "Image Wrapper" and was

associated with the applicant's file by mistake of the Office.

Examiner's Response: Accordingly with MPEP 609.07 [R-5}, Examiner will consider the IDS as

submitted on 22 October 2007 and has attached an initialed and signed copy herewith.

3.   Claim Rejections-35 USC 102 and 35 USC 103

Summary of Remarks @ page 3 of 11: Regarding the rejection of claims 1-12, 22 and 23 under

35 USC 102(3) as being anticipated by Loui et al; "Applicant will treat the Examiner's rejection

as a 35 USC 102(b) because 35 USC 102(3) does not exist."

Examiner's Response: Examiner states that the correction of the rejections made under 35 USC

102(3) are not rejected by Loui et al under 102(b) but 35 USC 102(e) based on the application

filing date as listed on 7 February 2002.

Summary of Remarks @ page 3 of 11:

"...the Examiner asserts that Loui discloses "code for retrieving a plurality of training data

structures that each comprise data members corresponding to feature elements and a data

member identifying one of a plurality of classes", column 3, line 38.

"Loui does not disclose any method for calculating a probability indicative of whether an item of

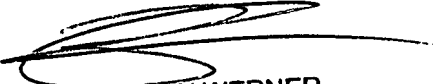labeled training data 24 belongs to its identified class.

Examiner's Response:

With reference to the previous Office Action on page 5, an explanation for the "present

invention, would ordinarily be implemented as a software program..." [which] "Once the featured

have been extracted...the supervised learning is based on labeled class training data 24 that

may include a wide variation in pixel appearances..." at column 3, lines 27-67 (for further

explanation).

With further reference to the previous Office Action on page 5 at column 3, "The preferred

technique for probabilistic classification of image regions is shown in FIG. 1. The main aim of

this technique is to find a class probability map over the input image representing the probability

of each pixel to have come from a given class."

The arguments regarding the rejections of the claims as presented are not convincing and the

finality of the rejection of these claims is maintained. The arguments are therefore moot and will

not be further addressed herein.

BRIAN WERNER
SUPERVISORY PATENT EXAMINER